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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,601	08/29/2003	John Behan Martin	506646-5004	6885

9629 7590 12/30/2005

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EXAMINER
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BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/088,601

Applicant(s)

MARTIN ET AL.

Examiner

Seth Barney

Art Unit

3752

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 5,9,10,17,18,22 and 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,15,16,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 5, 9, 10, 17, 18, 22, and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 20, 2005.

### *Claim Objections*

2. Claim 15 is objected to because of the following informalities: Claim 15 recites "a replaceable vessel mounted in the device". This recitation does not appear to be an accurate description because the vessel forms the lower part of the device. The vessel is connected to other pieces, but the vessel is not mounted "in" the device. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6-8, 15, 16, 20, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,222,525 to Hildebrandt.

Regarding claims 1 and 20, Hildebrandt discloses a dispensing device comprising an air pump (4), a vessel (17) having a lower region, for the liquid to be dispensed, a conduit extending upwardly (20) from the lower region of the vessel to a

liquid exit nozzle (19), an outlet conduit (14) for air flow from the pump, an air outlet nozzle (18a) being positioned adjacent to the liquid exit nozzle such that air discharged from the air outlet nozzle flows past the liquid exit nozzle and draws liquid therefrom in vapor and/or droplet form into the flow, the air outlet nozzle having a cross section less than that of the liquid exit nozzle. See Figure 1.

Regarding claims 2-4 and 21, a baffle (18c) is located at or closely downstream of the air outlet nozzle and extending transversely over part of the air outlet nozzle. The baffle is connected to the liquid nozzle and continues downstream of the liquid nozzle. See Figure 1.

Regarding claim 6, the liquid exit nozzle extends in front of the the air outlet nozzle to overlie a part of the air outlet nozzle, the portion of the air outlet nozzle which is not overlain by the liquid exit nozzle has a cross sectional area no substantially greater than the cross section of the liquid exit nozzle. See Figure 1.

Regarding claim 7, a baffle (18c) is formed immediately adjacent the exit form the air outlet nozzle, the axial projection of the air outlet nozzle clear of the baffle having a cross section smaller than the liquid exit nozzle cross section. See Figure 1.

Regarding claim 8, the dive further comprises a downstream flow passage (19), having a divergent cross-section wherein the liquid exit nozzle is located between the air outlet nozzle and the downstream flow passage. See Figure 1.

Regarding claims 15 and 16, the vessel and nozzle unit are removeable as demonstrated by the separate cross-hatching and threading. See Figure 1.

***Allowable Subject Matter***

5. Claims 11-14 and 19 are allowed.
6. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 5,765,758 to Chu, 3,696,973 to Cottell, 4,023,524 to Goldfarb et al., 5,181,349 to Schaffer, 4,595,127 to Stooddy, 5,248,096 to Hoey et al., 5,826,795 to Holland et al., 5,346,135 to Vincent, and 5,102,052 to Demarest et al., all disclose aspiration devices.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

sb



**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**